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examines these applications to determine whether all necessary information has been supplied and whether all required financial statements and other documents have been furnished in proper form. Defective applications may be returned with a request for correction or held until corrected before being accepted as a filing. The files of the Commission and other sources of information are considered to determine whether any person connected with the applicant appears to have engaged in activities which would warrant commencement of proceedings on the question of denial of registration. The staff confers with applicants and makes suggestions in appropriate cases for amendments and supplemental information. Where it appears appropriate in the public interest and where a basis therefore exists, denial proceedings may be instituted. Within 90 days of the date of publication of a notice of the filing of an application for registration as a national securities exchange, or exemption from registration by reason of such exchanges' limited volume of transactions (or within such longer period as to which the applicant consents), the Commission shall by order grant registration, or institute proceedings to determine whether registration should be denied as provided in § 240.19(a)(1) of this chapter.

(3) Notice forms for registration as national securities exchanges pursuant to Section 6(g)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(g)(1)) filed with the Commission are routed to the Division of Market Regulation, which examines these notices to determine whether all necessary information has been supplied and whether all other required documents have been furnished in proper form. Defective notices may be returned with a request for correction or held until corrected before being accepted as a filing.

[41 FR 44699, Oct. 12, 1976, as amended at 44 FR 21567, Apr. 10, 1979; 49 FR 12686, Mar. 30, 1984; 57 FR 18216, Apr. 29, 1992; 58 FR 15004, Mar. 18, 1993; 59 FR 5945, Feb. 9, 1994; 63 FR 70916, Dec. 22, 1998; 64 FR 19451, April 21, 1999; 66 FR 43741, Aug. 20, 2001]

§ 202.3a Instructions for filing fees.

(a) *General instructions for remittance of filing fees.* Payment of filing fees

specified by the following sections shall be made according to the directions listed in this section: § 230.111 of this chapter, § 240.0–9 of this chapter, and § 270.0–8 of this chapter. All such fees are to be paid through the U.S. Treasury designated lockbox depository and may be paid by wire transfer, certified check, bank cashier's check, United States postal money order, or bank money order pursuant to the specific instructions set forth in paragraph (b) of this section. Personal checks will not be accepted for payment of fees. To ensure proper posting, all filers must include their Commission-assigned Central Index Key (CIK) number (also known as the Commission-assigned registrant or payor account number) on fee payments. If a third party submits a fee payment, the fee payment must specify the account number to which the fee is to be applied.

(b) *Instructions for payment of filing fees.* Except as provided in paragraph (c) of this section, these instructions provide direction for remitting fees specified in paragraph (a) of this section. You may contact the Fee Account Services Branch in the Office of Financial Management at (202) 551-8989 for additional information if you have questions.

(1) *Instructions for payment of fees by wire transfer (FEDWIRE).* U.S. Bank, N.A. in St. Louis, Missouri is the U.S. Treasury designated lockbox depository and financial agent for Commission filing fee payments. The hours of operation at U.S. Bank are 8:30 a.m. to 6 p.m. Eastern time for wire transfers. Any bank or wire transfer service may initiate wire transfers of filing fee payments through the FEDWIRE system to U.S. Bank. A filing entity does not need to establish an account at U.S. Bank in order to remit filing fee payments.

(i) To ensure proper credit and prompt filing acceptance, in all wire transfers of filing fees to the Commission, you must include:

(A) The Commission's account number at U.S. Bank (152307768324); and

(B) The payor's CIK number.

(ii) You may refer to the examples found on the Commission's Web site at

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<http://www.sec.gov> for the proper format.

(2) *Instructions for payment of fees by check or money order.* To remit a filing fee payment by check (certified or bank cashier's check) or money order (United States postal or bank money order), you must make it payable to the Securities and Exchange Commission, omitting the name or title of any official of the Commission. On the front of the check or money order, you must include the Commission's account number (152307768324) and CIK number of the account to which the fee is to be applied. U.S. Bank does not accept walk-in deliveries by individuals. You must mail checks or money orders to the following U.S. Bank addresses:

(i) Remittances through the U.S. Postal Service must be sent to the following address: Securities and Exchange Commission, P.O. Box 979081, St. Louis, MO 63197-9000.

(ii) The following address can be used for remittances through other common carriers: U.S. Bank, Government Lockbox 979081, 1005 Convention Plaza, SL-MO-C2-GL, St. Louis, MO 63101.

NOTE TO PARAGRAPH (b). Wire transfers are not instantaneous. The time required to process a wire transfer through the FEDWIRE system, from origination to receipt by U.S. Bank, varies substantially. Specified filings, such as registration statements pursuant to section 6(b) of the Securities Act of 1933 that provide for the registration of securities and mandate the receipt of the appropriate fee payment upon filing, and transactional filings pursuant to the Securities Exchange Act of 1934, such as many proxy statements involving extraordinary business transactions, will not be accepted if sufficient funds have not been received by the Commission at the time of filing. You should obtain from your bank or wire transfer service the reference number of the wire transfer. Having this number can greatly facilitate tracing the funds if any problems occur. If a wire transfer of filing fees does not contain the required information in the proper format, the Commission may not be able to identify the payor and the acceptance of filings may be delayed. To ensure proper credit, you must provide all required information to the sending bank or wire transfer service. Commission data must be inserted in the proper fields. The most critical data are the Commission's account number at U.S. Bank and the Commission-assigned account number identified as the CIK number.

(c) *Special instructions for §§ 230.462(b) and 230.110(d) of this chapter.* Notwithstanding paragraphs (a) and (b) of this section, for registration statements filed pursuant to §§ 230.462(b) and § 230.110(d) of this chapter, payment of filing fees for the purposes of this section may be made by:

(1) The registrant or its agent instructing its bank or a wire transfer service to transmit to the Commission the applicable filing fee by a wire transfer of such amount from the issuer's account or its agent's account to the U.S. Treasury designated lockbox depository as soon as practicable, but no later than the close of the next business day following the filing of the registration statement; and

(2) The registrant submitting with the registration statement at the time of filing a certification that:

(i) The registrant or its agent has so instructed its bank or a wire transfer service;

(ii) The registrant or its agent will not revoke such instructions; and

(iii) The registrant or its agent has sufficient funds in such account to cover the amount of such filing fee.

NOTE TO PARAGRAPH (c). Such instructions may be sent on the date of filing the registration statement after the close of business of such bank or wire transfer service, provided that the registrant undertakes in the certification sent to the Commission with the registration statement that it will confirm receipt of such instructions by the bank or wire transfer service during regular business hours on the following business day.

(d) *Filing fee accounts.* A filing fee account is maintained for each filer who submits a filing requiring a fee on the Commission's EDGAR system or who submits funds to the U.S. Treasury designated depository in anticipation of paying a filing fee. Account statements are regularly prepared and provided to account holders. Account holders must maintain a current account address with the Commission to ensure timely access to these statements.

NOTE TO PARAGRAPH (d). The deposit of money into a filing fee account does not constitute payment of a filing fee. Payment of the filing fee occurs at the time the filing is made, commensurate with the drawing down of the balance of the fee account.

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(e) *Return of funds from inactive accounts.* Funds held in any filing fee account in which there has not been a deposit, withdrawal or other adjustment for more than 180 calendar days will be returned to the account holder, and account statements will not be sent again until a deposit, withdrawal or other adjustment is made with respect to the account. Filers must maintain a current account address to assure the timely return of funds. It may not be possible to return funds from inactive accounts if the Commission is unable to identify a current account address of an account holder after making reasonable efforts to do so.

NOTE TO PARAGRAPH (e). A company must update its account and other addresses using the EDGAR Web site. This method ensures data integrity and the timeliest update. Simply changing an address in the text of the cover page of a filing made on the EDGAR system will not be sufficient to update the Commission's account address records.

[73 FR 6013, Feb. 1, 2008]

§ 202.4 Facilitating administrative hearings.

(a) Applications, declarations, and other requests involving formal Commission action after opportunity for hearing are scrutinized by the appropriate division for conformance with applicable statutory standards and Commission rules and generally the filing party is advised of deficiencies. Prior to passing upon applications and declarations the Commission receives the views of all interested persons at public hearings whenever appropriate; hence, any applicant or declarant seeking Commission approval of proposed transactions by a particular time should file his application or declaration in time to allow for the presentation and consideration of such views.

(b) After the staff has had an opportunity to study an application or declaration, interested persons may informally discuss the problems therein raised to the extent that time and the nature of the case permit (e.g., consideration is usually given to whether the proceeding is contested and if so to the nature of the contest). In such event, the staff will, to the extent feasible, advise as to the nature of the issues raised by the filing, the necessity for

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any amendments to the documents filed, the type of evidence it believes should be presented at the hearing and, in some instances, the nature, form, and contents of documents to be submitted as formal exhibits. The staff will, in addition, generally advise as to Commission policy in past cases which dealt with the same subject matter as the filing under consideration.

(c) During the course of the hearings, the staff is generally available for informal discussions to reconcile bona fide divergent views not only between itself and other persons interested in the proceedings, but among all interested persons; and, when circumstances permit, an attempt is made to narrow, if possible, the issues to be considered at the formal hearing.

(d) In some instances the Commission in the order accompanying its findings and opinion reserves jurisdiction over certain matters relating to the proceeding, such as payment of fees and expenses, accounting entries, terms and conditions relating to securities to be issued, and other matters. In such cases, upon receipt of satisfactory information and data the Commission considers whether further hearing is required before releasing jurisdiction.

§ 202.5 Enforcement activities.

(a) Where, from complaints received from members of the public, communications from Federal or State agencies, examination of filings made with the Commission, or otherwise, it appears that there may be violation of the acts administered by the Commission or the rules or regulations thereunder, a preliminary investigation is generally made. In such preliminary investigation no process is issued or testimony compelled. The Commission may, in its discretion, make such formal investigations and authorize the use of process as it deems necessary to determine whether any person has violated, is violating, or is about to violate any provision of the federal securities laws or the rules of a self-regulatory organization of which the person is a member or participant. Unless otherwise ordered by the Commission, the investigation or examination is non-public and the reports thereon are for staff and Commission use only.